



Reprinted
April 4, 2007

ENGROSSED HOUSE BILL No. 1019

DIGEST OF HB 1019 (Updated April 3, 2007 4:28 pm - DI 114)

Citations Affected: IC 35-42; noncode.

Synopsis: Criminal law matters. Provides that a person who commits interference with custody must intend to deprive another person of custody rights. Eliminates the condition that, for an individual to commit the offense of interference with custody by failing to return a child to Indiana, the individual must have taken the child outside Indiana. Eliminates the condition under which an individual who takes or detains a child with intent to deprive another of custody or parenting time does not commit the offense of interference with custody unless the individual conceals the child. Provides that an individual who conceals a child with the intent to deprive another of custody or parenting time commits interference with custody even if the individual did not take or detain the child. Provides a defense if the accused person: (1) was threatened; or (2) reasonably believed the child was threatened. Increases the penalty for battery to a Class D felony for an offense against a family or household member if: (1) the person who committed the offense was at least 18 years of age; and (2) the offense occurred while in the physical presence of a child less than 16 years of age who might be able to see or hear the offense. Increases the penalty for battery to a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

Effective: July 1, 2007.

Duncan, Summers

(SENATE SPONSORS — NUGENT, FORD, LEWIS)

January 8, 2007, read first time and referred to Committee on Judiciary.
February 19, 2007, amended, reported — Do Pass.
February 23, 2007, read second time, amended, ordered engrossed.
February 26, 2007, engrossed.
February 27, 2007, read third time, passed. Yeas 92, nays 0.

SENATE ACTION

March 5, 2007, read first time and referred to Committee on Judiciary.
March 29, 2007, reported favorably — Do Pass.
April 3, 2007, read second time, amended, ordered engrossed.

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First Regular Session 115th General Assembly (2007)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2006 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1019

A BILL FOR AN ACT to amend the Indiana Code concerning
criminal law and procedure.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 35-42-2-1, AS AMENDED BY P.L.2-2005,
2 SECTION 125, IS AMENDED TO READ AS FOLLOWS
3 [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person who knowingly or
4 intentionally touches another person in a rude, insolent, or angry
5 manner commits battery, a Class B misdemeanor. However, the offense
6 is:
7 (1) a Class A misdemeanor if:
8 (A) it results in bodily injury to any other person;
9 (B) it is committed against a law enforcement officer or
10 against a person summoned and directed by the officer while
11 the officer is engaged in the execution of his official duty;
12 (C) it is committed against an employee of a penal facility or
13 a juvenile detention facility (as defined in IC 31-9-2-71) while
14 the employee is engaged in the execution of the employee's
15 official duty;
16 (D) it is committed against a firefighter (as defined in
17 IC 9-18-34-1) while the firefighter is engaged in the execution

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- 1 of the firefighter's official duty; or
- 2 (E) it is committed against a community policing volunteer:
- 3 (i) while the volunteer is performing the duties described in
- 4 IC 35-41-1-4.7; or
- 5 (ii) because the person is a community policing volunteer;
- 6 (2) a Class D felony if it results in bodily injury to:
- 7 (A) a law enforcement officer or a person summoned and
- 8 directed by a law enforcement officer while the officer is
- 9 engaged in the execution of his official duty;
- 10 (B) a person less than fourteen (14) years of age and is
- 11 committed by a person at least eighteen (18) years of age;
- 12 (C) a person of any age who is mentally or physically disabled
- 13 and is committed by a person having the care of the mentally
- 14 or physically disabled person, whether the care is assumed
- 15 voluntarily or because of a legal obligation;
- 16 (D) the other person and the person who commits the battery
- 17 was previously convicted of a battery in which the victim was
- 18 the other person;
- 19 (E) an endangered adult (as defined in IC 12-10-3-2);
- 20 (F) an employee of the department of correction while the
- 21 employee is engaged in the execution of the employee's
- 22 official duty;
- 23 (G) an employee of a school corporation while the employee
- 24 is engaged in the execution of the employee's official duty;
- 25 (H) a correctional professional while the correctional
- 26 professional is engaged in the execution of the correctional
- 27 professional's official duty;
- 28 (I) a person who is a health care provider (as defined in
- 29 IC 16-18-2-163) while the health care provider is engaged in
- 30 the execution of the health care provider's official duty;
- 31 (J) an employee of a penal facility or a juvenile detention
- 32 facility (as defined in IC 31-9-2-71) while the employee is
- 33 engaged in the execution of the employee's official duty;
- 34 (K) a firefighter (as defined in IC 9-18-34-1) while the
- 35 firefighter is engaged in the execution of the firefighter's
- 36 official duty; or
- 37 (L) a community policing volunteer:
- 38 (i) while the volunteer is performing the duties described in
- 39 IC 35-41-1-4.7; or
- 40 (ii) because the person is a community policing volunteer;
- 41 or
- 42 **(M) a family or household member (as defined in**

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IC 35-41-1-10.6) if the person who committed the offense:

(i) is at least eighteen (18) years of age; and

(ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;

(3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;

(4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;

(6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); and

(7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); and

(8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.

(b) For purposes of this section:

(1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and

(2) "correctional professional" means a:

(A) probation officer;

(B) parole officer;

(C) community corrections worker; or

(D) home detention officer.

SECTION 2. IC 35-42-3-4, AS AMENDED BY P.L.68-2005, SECTION 60, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 4. (a) A person who, **with the intent to deprive another person of child custody rights**, knowingly or intentionally:

(1) removes another person who is less than eighteen (18) years of age to a place outside Indiana when the removal violates a child custody order of a court; or

(2) ~~removes another person who is less than eighteen (18) years of age to a place outside Indiana and~~ violates a child custody order of a court by failing to return ~~the other~~ a person **who is less than eighteen (18) years of age** to Indiana;

commits interference with custody, a Class D felony. However, the offense is a Class C felony if the other person is less than fourteen (14) years of age and is not the person's child, and a Class B felony if the

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1 offense is committed while armed with a deadly weapon or results in
2 serious bodily injury to another person.

3 (b) A person who with the intent to deprive another person of
4 custody or parenting time rights:

5 (1) knowingly or intentionally takes; ~~and conceals; or~~

6 (2) knowingly or intentionally detains; ~~and conceals; or~~

7 **(3) knowingly or intentionally conceals;**

8 a person who is less than eighteen (18) years of age commits
9 interference with custody, a Class C misdemeanor. However, the
10 offense is a Class B misdemeanor if the taking, ~~and concealment, or the~~
11 detention ~~and concealment~~, is in violation of a court order.

12 (c) With respect to a violation of this section, a court may consider
13 as a mitigating circumstance the accused person's return of the other
14 person in accordance with the child custody order **or parenting time**
15 **order** within seven (7) days after the removal.

16 (d) The offenses described in this section continue as long as the
17 child is concealed or detained or both.

18 (e) If a person is convicted of an offense under this section, a court
19 may impose against the defendant reasonable costs incurred by a parent
20 or guardian of the child because of the taking, detention, or
21 concealment of the child.

22 **(g) It is a defense to a prosecution under this section that the**
23 **accused person:**

24 **(1) was threatened; or**

25 **(2) reasonably believed the child was threatened;**

26 **which resulted in the child not being timely returned to the other**
27 **parent resulting in a violation of a child custody order.**

28 **SECTION 3. [EFFECTIVE JULY 1, 2007] IC 35-42-3-4, as**
29 **amended by this act, applies only to crimes committed after June**
30 **30, 2007.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1019, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 1, line 3, delete "who" and insert "who, **with the intent to deprive another person of child custody rights**".

Page 1, line 6, delete "or parenting time order".

Page 1, line 9, delete "or parenting time order".

and when so amended that said bill do pass.

(Reference is to HB 1019 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 8, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1019 be amended to read as follows:

Page 1, line 4, delete "rights" and insert "**rights**".

Page 2, between lines 18 and 19, begin a new paragraph and insert:

"(g) It is a defense to a prosecution under this section that the accused person:

(1) was threatened; or

(2) reasonably believed the child was threatened;

which resulted in the child not being timely returned to the other parent resulting in a violation of a child custody order."

(Reference is to HB 1019 as printed February 20, 2007.)

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COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1019, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to House Bill 1019 as printed February 24, 2007.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

 SENATE MOTION

Madam President: I move that Engrossed House Bill 1019 be amended to read as follows:

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 35-42-2-1, AS AMENDED BY P.L.2-2005, SECTION 125, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 1. (a) A person who knowingly or intentionally touches another person in a rude, insolent, or angry manner commits battery, a Class B misdemeanor. However, the offense is:

- (1) a Class A misdemeanor if:
 - (A) it results in bodily injury to any other person;
 - (B) it is committed against a law enforcement officer or against a person summoned and directed by the officer while the officer is engaged in the execution of his official duty;
 - (C) it is committed against an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
 - (D) it is committed against a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
 - (E) it is committed against a community policing volunteer:
 - (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
 - (ii) because the person is a community policing volunteer;
- (2) a Class D felony if it results in bodily injury to:

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- (A) a law enforcement officer or a person summoned and directed by a law enforcement officer while the officer is engaged in the execution of his official duty;
- (B) a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (C) a person of any age who is mentally or physically disabled and is committed by a person having the care of the mentally or physically disabled person, whether the care is assumed voluntarily or because of a legal obligation;
- (D) the other person and the person who commits the battery was previously convicted of a battery in which the victim was the other person;
- (E) an endangered adult (as defined in IC 12-10-3-2);
- (F) an employee of the department of correction while the employee is engaged in the execution of the employee's official duty;
- (G) an employee of a school corporation while the employee is engaged in the execution of the employee's official duty;
- (H) a correctional professional while the correctional professional is engaged in the execution of the correctional professional's official duty;
- (I) a person who is a health care provider (as defined in IC 16-18-2-163) while the health care provider is engaged in the execution of the health care provider's official duty;
- (J) an employee of a penal facility or a juvenile detention facility (as defined in IC 31-9-2-71) while the employee is engaged in the execution of the employee's official duty;
- (K) a firefighter (as defined in IC 9-18-34-1) while the firefighter is engaged in the execution of the firefighter's official duty; or
- (L) a community policing volunteer:
 - (i) while the volunteer is performing the duties described in IC 35-41-1-4.7; or
 - (ii) because the person is a community policing volunteer;
 or
- (M) a family or household member (as defined in IC 35-41-1-10.6) if the person who committed the offense:**
 - (i) is at least eighteen (18) years of age; and**
 - (ii) committed the offense in the physical presence of a child less than sixteen (16) years of age, knowing that the child was present and might be able to see or hear the offense;**

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- (3) a Class C felony if it results in serious bodily injury to any other person or if it is committed by means of a deadly weapon;
- (4) a Class B felony if it results in serious bodily injury to a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (5) a Class A felony if it results in the death of a person less than fourteen (14) years of age and is committed by a person at least eighteen (18) years of age;
- (6) a Class C felony if it results in serious bodily injury to an endangered adult (as defined in IC 12-10-3-2); ~~and~~
- (7) a Class B felony if it results in the death of an endangered adult (as defined in IC 12-10-3-2); **and**
- (8) a Class C felony if it results in bodily injury to a pregnant woman and the person knew the woman was pregnant.**

(b) For purposes of this section:

- (1) "law enforcement officer" includes an alcoholic beverage enforcement officer; and
- (2) "correctional professional" means a:
 - (A) probation officer;
 - (B) parole officer;
 - (C) community corrections worker; or
 - (D) home detention officer."

Renumber all SECTIONS consecutively.

(Reference is to EHB 1019 as printed March 30, 2007.)

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